

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JULIE A. SU, Acting Secretary of  
Labor, United States Department of  
Labor,

Plaintiff,

v.

DIGNITY HOME CARE, INC., and  
M'MOUPIENTILA N'KENON N'DA  
a/k/a MARC N'DA,

Defendants.

Civil Action File No. 8:23-cv-00465-  
RFR-SMB

**UNOPPOSED MOTION FOR TEMPORARY STAY OF ACTION**

Defendants Dignity Home Care, Inc. (“Dignity”) and M’moupiéntila N’kenon “Marc” N’da (“Mr. N’da”), collectively referred to hereinafter as “Defendants,” by and through the undersigned counsel, hereby respectfully move the Court for a 45-day stay of this action the (“Motion”). Plaintiff does not oppose the 45-day stay requested by Defendants. Defendants show good cause exists to grant the Motion as follows:

1. Defendants intend to file a motion to substitute counsel but need additional time to retain counsel and transfer the file. A stay would permit for the orderly transition to new counsel while preserving the time remaining in the discovery period.

2. “It is within the court's inherent power to grant a stay in order to control its docket, conserve judicial resources, and provide for a just determination of the cases pending before it.” *Cybertek, Inc. v. Bentley Sys., Inc.*, 182 F. Supp. 2d 864, 872 (D. Neb. 2002) (quoting *Contracting Nw., Inc. v. City of Fredericksburg, Iowa*, 713 F.2d 382, 387 (8th Cir. 1983)); (citing *City of Bismarck v. Toltz, King, Duvall, Anderson & Assocs., Inc.*, 767 F.2d 429, 432 (8th Cir. 1985)); (citing *Webb v. R. Rowland & Co.*, 800 F.2d 803, 808 (8th Cir. 1986).

3. The trial court possesses the inherent power to control its own docket and calendar. *Landis v. North American Co.*, 299 U.S. 248, 254–55, 57 S.Ct. 163, 165–66, 81 L.Ed. 153, 158–59 (1936); accord *Leyva v. Certified Grocers of California, Ltd.*, 593 F.2d 857, 864 (9th Cir.), cert. denied, 444 U.S. 827, 100 S.Ct. 51, 62 L.Ed.2d 34 (1979).

4. The Eighth Circuit Court of Appeals will not overturn a trial court's stay of an action unless the court has abused its discretion, and it is difficult to envision an abuse of discretion if the Court grants an unopposed motion. *Mediterranean Enterprises, Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983); (citing *Filtrol Corp. v. Kelleher*, 467 F.2d 242, 244 (9th Cir.1972), cert. denied, 409 U.S. 1110, 93 S.Ct. 914, 34 L.Ed.2d 691 (1973)).

5. District Courts in this Circuit and elsewhere have ordered temporary stays to allow new counsel for a party to be retained and allow new counsel sufficient

time to familiarize themselves with the action. *See, e.g., In re Hampton Corp., Inc.*, 126 B.R. 61, 62 (Bankr. D.N.D. 1991); *Alexian Bros. Med. Ctr. v. Sebelius*, 63 F. Supp. 3d 105, 109 (D.D.C. 2014); *Schwartz v. AMF Bowling Ctr., Inc.*, No. 19-CV-7096 (WFK) (JAM), 2024 WL 3912303, at \*6 (E.D.N.Y. Aug. 23, 2024).

6. A stay would permit new counsel sufficient time to receive the file, become fully apprised in this case, and then participate on the Defendants' behalf in the remaining discovery period, including defending Defendants' depositions.

7. This motion will not meaningfully delay trial in this case and will not prejudice the rights of any party. To the contrary, it would serve the interests of justice and judicial economy to allow Defendants' new counsel a reasonable time to get up to speed and engage in the case with time remaining in the discovery period.

8. Notably, Plaintiff does not oppose the Motion.

For the reasons set forth above, Defendants respectfully request that the Court stay all deadlines in this case for 45 days to permit Defendants to orderly transition to new counsel.

Respectfully submitted, this 7th day of November, 2024.

/s/ F. Beau Howard  
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 7, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following: Julie A. Su, Acting Secretary of Labor, United States Department of Labor, and I hereby certify that I have mailed by United States Postal Service the document to the following CM/ECF participants:

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